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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
09 AT SEATTLE

10 RICHARD EARL PALLASKE,) Case No. 06-1735-RSL-JPD
11)
12 Plaintiff,)
13)
14 v.) ORDER GRANTING IN PART
15) PLAINTIFF'S MOTION FOR
16 ISLAND COUNTY, et al.,) EXTENSION OF DISCOVERY
17) DEADLINE
18 Defendants.)
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27 This matter comes before the Court upon plaintiff's motion to extend the discovery
28 deadline in the above-captioned case. Plaintiff seeks an extension of 180 to 360 days. Dkt.
29 No. 24 at 3. Defendants have filed a response which objects only to the length of the requested
30 extension, asserting that a three-month extension is more appropriate. Dkt. No. 26 at 1-2.
31 After careful consideration of the motion, response, governing law, and the balance of the
32 record, the Court ORDERS as follows:

33 Federal Rule of Civil Procedure 16(b) provides for the modification of a scheduling
34 order upon a "showing of good cause" by the moving party. Fed. R. Civ. P. 16(b). The Court
35 may modify the pretrial schedule "if it cannot reasonably be met despite the diligence of the
36 party seeking the extension." Fed. R. Civ. P. 16, Advisory Committee Notes (1983 Amd.).
37 Although the existence or degree of prejudice to the party opposing the modification can
38 provide additional reasons to deny a motion, the focus of the inquiry is upon the moving

01 party's reasons for seeking modification. *See Johnson v. Mammoth Recreation, Inc.*, 975 F.2d
02 604, 609 (9th Cir. 1992). If the moving party has not been diligent, the inquiry should end.
03 *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002)

04 Plaintiff has demonstrated good cause. Plaintiff's motion indicates that he has
05 encountered difficulties preparing for trial because of limited personal and prison resources.
06 Dkt. No. 25 at 2. Furthermore, plaintiff submits that he is entitled to an extension due to
07 delays in receiving this Court's Pretrial Scheduling Order (Dkt. No. 17), failed attempts to
08 obtain counsel, failed attempts to locate and receive declarations from several eye-witnesses,
09 and other significant difficulties encountered during the discovery process. Dkt. No. 24 at 1-2.
10 These facts indicate plaintiff has diligently attempted to conform to this Court's scheduling
11 orders but, despite his best efforts, has been unable to do so.

12 Defendants do not contend that plaintiff was not diligent, do not argue that they have
13 or will be prejudiced, or that good cause has not been shown. Instead, they simply submit that
14 90 days, not 180 to 360, is the more appropriate extension.

15 Defendant's opposition was filed with the Court and mailed to the plaintiff on July 2,
16 2007—the Monday before the date upon which plaintiff's motion was noted on this Court's
17 calendar. As plaintiff correctly notes, defendant's response was not timely mailed in
18 accordance with this Court's Local Rules. *See* Local Rule CR 7(d)(3) ("If service is by mail,
19 the opposition papers shall be mailed *not later* than the Friday preceding the noting date.")
20 (emphasis added). For that reason, plaintiff urges that defendants' response be stricken and the
21 discovery schedule extended 180 to 360 days. It appears that plaintiff may be able to obtain
22 counsel if the Court grants such an extension. *See* Dkt. No. 24 at 2, Ex. 1; Dkt. No. 30 at 2.

23 The Court ORDERS as follows:


24 (1) Plaintiff's motion for extension of time (Dkt. No. 24) is GRANTED IN PART.
25 Plaintiff's Motion to Strike defendant's response (Dkt. No. 29) is DENIED. Plaintiff shall be
26 granted an additional **9 months** from the date of this Order to complete discovery. The

01 discovery deadline is thus moved to **May 2, 2008**. Furthermore, the dispositive motions
02 deadline shall be extended until **June 2, 2008**. Finally, the parties shall confer and provide the
03 Court with a joint pretrial statement by no later than **September 1, 2008**. A trial date will be
04 set by the Court at an appropriate time in the future.

05 The Court advises the plaintiff that no further extensions will be granted absent a
06 showing of good cause.

07 (2) The Clerk is directed to send a copy of this Order to plaintiff, counsel for the
08 defendants, and to the Honorable Robert S. Lasnik, Chief Judge.

09 DATED this 1st day of August, 2007.

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12 JAMES P. DONOHUE
13 United States Magistrate Judge
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